

HOUSE BILL No. 2139

Proposed Amendments to HB 2139-Balloon 2
March 4, 2015
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Office of Revisor of Statutes

By Representatives Rubin, Barker, Barton, Bradford, Hedke, Hildabrand, Hutchins,
K. Jones, Kiegerl, Lunn, Machchers, Osterman, Peck, Read, Suelentrop and Sutton

1-27

AN ACT concerning postsecondary education; relating to residency for
purposes of tuition and fees; amending K.S.A. 2014 Supp. 76-729 and
repealing the existing section; also repealing K.S.A. 2014 Supp. 76-
731a.

immigration; relating to the use of e-verify program; relating to

Be it enacted by the Legislature of the State of Kansas:

See Attachment A

Sec. 2.

~~Section 1, K.S.A. 2014 Supp. 76-729, is hereby amended to read as~~
follows: 76-729. (a) (1) Persons enrolling at the state educational
institutions under the control and supervision of the state board of regents
who, if such persons are adults, have been domiciliary residents of the
state of Kansas or, if such persons are minors, whose parents have been
domiciliary residents of the state of Kansas for at least 12 months prior to
enrollment for any term or session at a state educational institution are
residents for fee purposes. A person who has been a resident of the state of
Kansas for fee purposes and who leaves the state of Kansas to become a
resident of another state or country shall retain status as a resident of the
state of Kansas for fee purposes if the person returns to domiciliary
residency in the state of Kansas within 60 months of departure. All other
persons are nonresidents of the state of Kansas for fee purposes.

(2) The provisions of this subsection shall be applicable to any person
enrolling at a state educational institution from and after July 1, 2006. Any
person who: (A) Qualifies as a resident of the state of Kansas for fee
purposes under the provisions of this subsection; (B) attended a state
educational institution during academic year 2006-2007; and (C) paid fees
as if such person was not a resident of the state of Kansas, may apply to
such state educational institution to be reimbursed in an amount equal to
the difference between the amount the person paid in fees and the amount
the person would have paid if such person had been treated as a resident of
the state of Kansas. Such reimbursement shall be paid by the state
educational institution at which such person was enrolled during academic
year 2006-2007.

~~(3) The provisions of this subsection shall not apply to a person who
is deemed a resident for fee purposes pursuant to K.S.A. 2014 Supp. 76-
731a, and amendments thereto.~~

(b) The state board of regents may authorize the following persons, or

Attachment A

New Section 1. (a) As a condition for the award of any contract or grant in excess of \$5,000 by a governmental entity to a business entity, the business entity shall, by provision of a signed e-verify program memorandum of understanding, by sworn affidavit signed before a notary and by provision of documentation, affirm its enrollment and good faith participation in the e-verify program with respect to all new employees eligible for verification under the e-verify program, working in connection with the contracted services.

(b) All public employers, including any governmental entity, shall enroll and participate in good faith in the e-verify program.

(c) A general contractor or subcontractor of any tier shall not be liable under this section when such general contractor or subcontractor contracts with its direct subcontractor who violates subsection (a), if the contract binding the contractor and subcontractor affirmatively states that the direct subcontractor is not knowingly in violation of subsection (a) and shall not henceforth be in such violation and the contractor or subcontractor acts in good faith to obtain a sworn affidavit signed before a notary attesting to the fact that the direct subcontractor is enrolled and participates in good faith in the e-verify program with respect to all new employees eligible for verification under the e-verify program, working in connection with the contracted services.

(d) In addition to any other provision of law, any business entity violating the provisions of subsection (a) requiring that such business entity affirm its enrollment and good faith participation in the e-verify program with respect to all new employees eligible for verification under the e-verify program and working in connection with the contracted services shall be deemed in breach of contract and the governmental entity may terminate the contract and, upon notice and opportunity to be heard, suspend or debar the business entity from doing business with the governmental entity:

(1) Upon a first violation, for a period of up to three years, and upon any contract termination, the governmental entity may, in addition to such other remedies as may be provided by law, withhold from amounts due or recover as liquidated damages up to 5% of the total amount of the contract with the business entity; and

(2) upon a second or subsequent violation, for a period of not less than three years, and upon any contract termination, the governmental entity may, in addition to such other remedies as may be provided by law, withhold from amounts due or recover as liquidated damages up to 10% of the total amount due to the business entity.

(e) In any civil action undertaken by any governmental entity or any business entity to enforce rights and remedies under this section, the prevailing party shall be awarded its costs to include reasonable attorney fees associated with such action.

(f) Any business entity covered under this section which terminates an employee pursuant to a notification that such employee is not authorized to work in the United States, pursuant to that business entity's participation in the e-verify program, shall not be liable for any claims made against the business entity under the laws of the state of Kansas alleging that such termination was wrongful.

(g) As used in this section:

(1) "Business entity" means any business that employs one or more employees.

(2) "E-verify program" means a program operated by the United States department of homeland security pursuant to the illegal immigration reform and immigrant responsibility act of 1996, public law 104-208, or a successor electronic federal work authorization program.

(3) "Good faith" means, with honesty and intent, to fully comply with all applicable laws, rules and regulations and standards. A business entity shall not be deemed to have violated the requirements of good faith based on inadvertent errors committed by subordinate personnel and unknown to the principals of the business entity when made.

(4) "Governmental entity" means the state or municipality as such terms are defined in K.S.A. 75-6102, and amendments thereto.

(h) If any provision of this section is held to be unconstitutional under the United States or Kansas constitutions, that provision shall be severed from this section, and the other provisions of the section shall remain valid and in effect.